

## Chapter 1.32

### GENERAL PENALTY

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#### Sections:

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#### **1.32.010 Violation--Penalty.**

The city council of the city intends to secure compliance with the provisions of this code. To the extent that such compliance may be achieved by less drastic methods of enforcement, the following alternate, separate and distinct methods may be utilized. Each method set forth herein is intended to be mutually exclusive and does not prevent concurrent or consecutive methods being used to achieve compliance against continuing violations. Each and every day any such violations exist constitutes a separate offense. Notwithstanding any other provision of this code, each violation of the provisions of this code may be enforced alternatively as follows:

A. **Infraction.** Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this code may be prosecuted for an infraction. Written citations for infractions may be issued by police officers or nonsafety employees designated by Section 1.28.020 of this code. Any person convicted of an infraction under the provisions of this code shall be punishable either by fines as is specified in the currently adopted Uniform Infraction Bail Schedule used by the Riverside County Three Lakes Municipal Courts, or where no fine is specified therein by:

1. A fine not exceeding one hundred dollars (\$100.00) for a first violation;
2. A fine not exceeding two hundred dollars (\$200.00) for a second violation of the same ordinance within one year;
3. A fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same ordinance within one year.

B. **Misdemeanor.** Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this code may be prosecuted for a misdemeanor. Written citations for misdemeanors may be issued by police officers or by nonsafety employees designated by Section 1.28.020 of this code. Any person convicted of a misdemeanor under the provisions of this code shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment for a term not exceeding six months, or by both such fine and imprisonment.

C. **Civil Action.** The city attorney, by and at the request of the city council, may institute an action in any court of competent jurisdiction to restrain, enjoin or abate the condition(s) found to be in violation of the provisions of this code, as provided by law.

D. **Administrative Citation.** Upon a finding by the city official vested with the authority to enforce the various provisions of this code that a violation exists, he or she may issue an administrative citation under the provisions of Chapter 1.26.

(Ord. 207 § 1, 1999; Ord. 3 § 1 (part), 1991; prior code § 1.01.200)

#### **1.32.020 Aiding and abetting.**

Whenever in this code any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

(Ord. 3 § 1 (part), 1991; prior code § 1.01.210)

#### **1.32.030 Establishment of offenses as infractions.**

Any violation expressly declared to be punishable, in the discretion of the court, by either a fine, or by a fine or imprisonment, or both, shall become an infraction for all purposes under any of the following circumstances:

- A. Where a judgement imposes a punishment of a fine not exceeding one hundred dollars (\$100.00) in the case of a first offense;
- B. When the court grants probation to a defendant without the imposition of a sentence and, at the time of granting probation, or on application of the defendant or probation officer thereafter, the court declares the offense to be an infraction; or
- C. When the city attorney or any deputy district attorney files in a court having jurisdiction over misdemeanor offenses a

complaint specifying that the offense is an infraction.

(Amended during 8/00 supplement; Ord. 3 § 1 (part), 1991: prior code § 1.01.220)

#### **1.32.040 Punishments.**

A. Any person convicted of a misdemeanor under the provisions of this code shall be punishable by a fine of not more than one thousand dollars (\$1,000.00), or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment.

B. Any person convicted of an infraction under the provisions of this code shall be punishable for a first conviction by a fine of not more than one hundred dollars (\$100.00), for a second conviction within a period of one year by a fine of not more than two hundred dollars (\$200.00), and for a third or any subsequent conviction within a period of one year by a fine of not more than five hundred dollars (\$500.00).

(Amended during 8/00 supplement; Ord. 3 § 1 (part), 1991: prior code § 1.01.230)

#### **1.32.050 Attorney fees.**

The prevailing party in any action, administrative proceeding, or special proceeding to abate a public nuisance, or in any appeal or other judicial action arising therefrom, shall be entitled to recover its reasonable attorneys' fees. Recovery of attorneys' fees shall be limited to those actions or proceedings in which the city elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fees. In no action or proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the city in the action or proceeding.

(Ord. 608-24 § 3, 2024; Ord. 299 § 1, 2004)

#### **1.32.060 Civil penalties.**

A. The council finds that there is a need for alternative methods of enforcement of the Murrieta Municipal Code and applicable state codes in addition to the penalties provided by Section 1.32.010. The council further finds that the assessment of civil penalties is a necessary alternative method of code enforcement. The administrative assessment of civil penalties established in this section is in addition to any other remedies established by law which may be pursued to address Municipal Code or state law violations.

B. Civil penalties may be assessed against a responsible party for continued violations of the municipal code or applicable state codes, whether of the same section or any combination, that reflect a continuing disregard for the requirements of such laws. The chief of police or his or her designee may issue a notice and order to the responsible party assessing a civil penalty pursuant to this section. The civil penalty may be enforced as a lien pursuant to subsection (D) of this section.

C. Civil penalties may be assessed at a daily rate not to exceed \$1,000 per violation per day, and not to exceed a total of \$100,000 per tax assessor's parcel number, in the case of unimproved real property, or \$100,000 per each structure against which violations have existed on a single tax assessor's parcel number for any related series of violations. In determining the amount to be imposed on a daily rate, the chief of police or his or her designee shall consider the following factors:

1. Duration of the violation.
2. Frequency or occurrence of the violation or other similar violations.
3. Seriousness of the violation in relation to its threat or impact upon public health, welfare, or safety.
4. History of violations.
5. Activity taken by the responsible party to obstruct or interfere with correction of the violation.
6. Good faith or bad faith efforts by responsible party to comply.
7. The impact of the violation on the surrounding property and community.
8. The financial ability of the responsible party to have corrected the violation in a timely fashion.

D. Civil penalties, as confirmed by resolution of the city council, shall constitute a special assessment against the property to which it relates, and after its recording, as thus made and confirmed, the same shall constitute a lien on the property in the amount of such assessment. After the confirmation of the statement, a copy thereof shall be recorded in the official records of Riverside County and shall be transmitted to the assessor and tax collector of the county by the city clerk. Whereupon it shall be the duty of the assessor and tax collector to add the amount of such assessment, or assessments, to the next regular bills of taxes levied against the said respective lot or parcel of land, and thereafter the amount shall be collected at the same time and in the same manner as ordinary real property taxes are collected, and shall be subject to the same penalties and the same procedure for foreclosure and sale in the case of delinquency as provided for ordinary real property taxes.

E. Appeals. Within ten (10) days from the date of giving written notice of the imposition of civil penalties, the violator may file an appeal to the city manager. Such appeal shall be in writing and shall identify the property subject to the notice of civil penalties. The city manager shall then appoint a hearing officer to hear the appeal. The hearing officer must hear the appeal within twenty (20) days from the filing of the notice of appeal by the violator or at such later date as may be mutually agreed

to in writing by the appellant and the city manager. Notice of the date of hearing shall be given in writing. The date of the hearing shall be no sooner than five (5) days from the date when notice of the hearing is given to the appellant and to the code enforcement officer. The decision of the hearing officer shall be final.

(Ord. 405 § 1, 2008)